571, 42 Pac. 225. See 2 COOK, CORPORATIONS, 7 ed., § 610. And in New York this right is granted by statute. N. Y. CONSOL. LAWS, 1991. Hence, if the court has power to invalidate the election in the principal case, it is not because of anything improper in the mere casting of the votes by proxy. But, if for any reason the shareholders have not had a fair opportunity to vote in a regularly conducted meeting, the election may be set aside. *In Re Argus Printing Co.*, 1 N. D. 434, 48 N. W. 347; *In Re Townsend*, 24 Misc. 80, 53 N. Y. Supp. 289. Similarly, where, as in the principal case, there is a fraud and surprise on the majority shareholders, another election may be ordered. *People* v. *Albany, etc. R. Co.*, 55 Barb. (N. Y.) 344. In the absence of statute, *quo warranto* is the proper proceeding to try title to a corporate office; and in the ordinary case equity will not interfere. See *People* v. *Albany, etc. R., supra; Mozley* v. *Alston*, 16 L. J. Eq. (N. S.) 217. But, if the election is fraudulently conducted, equity will sometimes take jurisdiction to prevent irreparable injury. *Johnston* v. *Jones*, 23 N. J. Eq. 216. But see *Hartt* v. *Harvey*, 32 Barb. (N. Y.) 55. However, the remedy in this type of cases is largely statutory. See 2 COOK, CORPORATIONS, 7 ed., § 619. The New York statute is fairly typical. It provides that the Supreme Court shall exercise general supervision over corporate elections and afford any relief the occasion demands. N. Y. CONSOL. LAWS, 1994.

EMINENT DOMAIN — WHEN PROPERTY IS TAKEN — DAMAGE TO LAND ON STREAMS TRIBUTARY TO STREAMS IMPROVED. — The government erected a lock and dam in the Cumberland River, which caused the plaintiff's land, which is situated on an unnavigable tributary of the Cumberland River, to be frequently overflowed. *Held*, that the plaintiff is entitled to compensation. *United States* v. *Cress*, U. S. Sup. Ct., Oct. Term, 1916, No. 84.

In another case, the facts were similar to those in *United States* v. *Cress*, except that instead of flooding the plaintiff's land, the water was backed up upon a mill dam, so that there was not enough fall to turn the mill wheel. *Held*, that the plaintiff is entitled to compensation. *United States* v. *Kelly*, U. S. Sup. Ct., Oct. Term, 1916, No. 718.

The federal government has power to control navigable streams so far as may be necessary in regulating commerce among the states and with foreign nations. CONSTITUTION, Art. 1, § 8. See *Scott* v. *Lattig*, 227 U. S. 229, 243; *Gibson* v. *United States*, 166 U. S. 269, 272. But this power is limited by the Fifth Amendment which prohibits the taking of private property for public use without just compensation. See *Monongahela Navigation Co.* v. *United States*, 148 U. S. 312, 336. For a taking there must be an appropriation of an interest in the land itself as contrasted with mere consequential damage such as an interference with access to a stream. *Gibson* v. *United States, supra; Scranton* v. *Wheeler*, 179 U. S. 141. See 14 HARV. L. REV. 451. If the land is permanently flooded, it is a taking of the fee simple. *Pumpelly* v. *Green Bay Co.*, 13 Wall. (U. S.) 166; *United States* v. *Lynah*, 188 U. S. 445. See LEWIS, EMINENT DOMAIN, 3 ed., § 80. If the flooding is only occasional, a lesser interest analogous to an easement is taken. *McKenzie* v. *Mississippi, etc. Boom Co.*, 29 Minn. 288. It is also a taking when the improvements interfere with the use of a mill. *Gibson* v. *Fischer*, 68 Iowa, 29, 25 N. W. 914; *Barclay R. & Coal Co.* v. *Ingham*, 36 Pa. St. 194. It would seem that the rights of riparian owners along unnavigable tributaries are as great as the rights of owners of land along the stream improved.

EVIDENCE — DOCUMENTS — CARBON COPIES AS DUPLICATE ORIGINALS. — Plaintiff offered in evidence a carbon copy of a typewritten letter which he had sent to the defendant. No notice to produce the original had been given. *Held*, that the carbon copy is admissible. *Edmunds* v. *Atchison, etc. Ry. Co.*, 162 Pac. 1038 (Cal.).

It is well settled that a letter-press reproduction of a writing is not a duplicate original and cannot be offered in evidence without accounting for the original. *Foot* v. *Bentley*, 44 N. Y. 166. See 1 ELLIOTT, EVIDENCE, § 208. But reproductions made by a printing-press have been held to be duplicate originals; and each of such documents has been regarded as primany evidence of the contents of any other. *Rex* v. *Watson*, 2 Stark. 116, 129. Where the question has arisen, courts have generally taken the view that a carbon copy of an ordinary communication is a duplicate original and may be introduced without explaining the non-production of the other original. *Hubbard* v. *Russell*, 24 Barb. (N. Y.) 404; *International Harvester Co.* v. *Elfstrom*, 101 Minn. 263, 112 N. W. 252; *Cole* v. *Elwood Power Co.*, 216 Pa. St. 283, 65 Atl. 678. *Contra*, *State* v. *Teasdale*, 120 Mo. App. 692, 97 S. W. 995. It is submitted that whether documents are duplicate originals or not should depend, not on the mechanism by which they are produced, but on the effect intended to be given to the different documents by the parties. See *Cleveland, etc. R. Co.* v. *Perkins*, 17 Mich. 296. Although a carbon copy is made simultaneously with the typewritten letter, there is but *one* original, — that which is mailed and is intended as the written communication between the parties. See *Andrews* v. *Wirral Rural Council*, [1916] 1 K. B. 863, 872. And it would seem that this is true even though the document sent has no particular legal significance in itself. See *contra*, 19 HARV. L. REV. 123.

INTERSTATE COMMERCE — CONTROL BY CONGRESS — APPLICATION TO AUTOMATIC COUPLER ON SINGLE ELECTRIC CAR. — Section two of the Safety Appliance Act forbids any interstate common carrier to "permit to be . . . used on its line any car not equipped with couplers . . . which can be uncoupled without the necessity of men going between the ends of the cars." An interurban interstate electric railway operated single cars without automatic couplers of the kind required. The United States sues for the penalties provided. *Held*, that it may not recover the penalties. *International Ry. Co.* v. *United States*, 238 Fed. 317.

The purpose of the Act was to keep men from going between cars that were being coupled. Although penal in form, the Act has been held to be chiefly remedial; and, as such, it has been liberally construed so as to accomplish its purpose. See *Johnson* v. *Southern Pacific Ry. Co.*, 196 U. S. 1, 17. Congress by amendment, and the courts by construction, have combined in requiring couplers wherever and only where danger might be incurred. See *Pennell* v. *Philadelphia & Reading Ry. Co.*, 231 U. S. 675, 679; *United States* v. *Chicago, etc. Ry. Co.*, 149 Fed. 486, 488. Thus, the word "car" in section two includes locomotives. 32 STAT. AT L. 943, § 1; *Johnson* v. *Southern Pacific Ry. Co.*, 196 U. S. 1. But the courts have held that this does not usually include the front end of the locomotive. *Wabash R. Co.* v. *United States*, 172 Fed. 864. See *Campbell* v. *Spokane, etc. R. Co.*, 188 Fed. 516, 518. However, if the front end is used for shunting, it must be properly equipped. *Chicago, etc. Ry. Co.* v. *United States*, 196 Fed. 882. Likewise, "car" includes tenders. 32 STAT. AT L. 943, § 1; *Philadelphia & Reading Ry. Co.* v. *Winkler*, 4 Pennewill (Del.) 387, 56 Atl. 112. But the courts have held that the end of the tender coupled to the locomotive is not included. *Pennell* v. *Philadelphia & Reading Ry. Co.*, 231 U. S. 675. Safety does not require the coupling on cars which are run singly. Therefore, the decision in the principal case seems clearly right.

INTERSTATE COMMERCE — DEMURRAGE — UNIFORM DEMURRAGE CODE — PUBLIC AND PRIVATE TRACKS — DUE PROCESS. — The defendant, Swift & Co., occupied under a license from the plaintiff, the Hocking Valley Railway Co., a siding appurtenant to the Swift warehouse. The Uniform Demurrage Code provides for imposing a charge on all privately owned cars detained under lading longer than the forty-eight-hour free period, whether on private or car-